

REMARKS

The applicant respectfully requests reconsideration in view of the amendment and the following remarks. Support for amended claim 16 can be found in paragraph nos. [0026] and [0030] of the published specification (US 2006/0194054). The amendment does not contain new matter.

The Examiner has rejected claims 2-13 and 15-21 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2-21 are rejected under 35 U.S.C. 112, first paragraph, as failing, as failing to comply with the written description requirement. Claims 2-5, 8-11, 13 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse (U.S. Patent No. 6,165,599) in view of Dallmann et al. (U.S. Patent No. 4,572,854) and as evidenced by Crass et al. (U.S. Patent No. 4,786,533). Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and further, in view of Fatica et al. (U.S. Patent No. 6,033,786). Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and Fatica et al. and, further, in view of Murschall et al. (U.S. Patent No. 5,436,041). Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and Crass. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and Wilkie et al. (U.S. Patent No. 5,482,780). Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and Murschall. Claims 2-6, 11, 13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crass in view of Demeuse and Dallmann. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crass in view of Demeuse and Dallmann and further in view of Wilkie. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crass in view of Demeuse and Dallmann and

further in view of Murschall. Claims 2-11, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkie in view of Crass and Dallmann. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkie in view of Crass and Dallmann and further in view of Murschall. The applicant respectfully traverses these rejections.

Rejections under 35 U.S.C. 112

The Examiner has rejected claims 2-13 and 15-21 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2-21 are rejected under 35 U.S.C. 112, first paragraph, as failing, as failing to comply with the written description requirement. The applicant believes that the claims as amended are in compliance with 35 U.S.C. 112, first and second paragraph rejections. For the above reasons, this rejection should be withdrawn.

Rejections under 35 U.S.C. 103(a)

Claims 2-5, 8-11, 13 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallman and as evidenced by Crass. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and further, in view of Fatica. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and Fatica et al. and, further, in view of Murschall. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and Crass. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallmann and Wilkie. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demeuse in view of Dallman and Murschall. Claims 2-6, 11, 13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crass in view of Demeuse and

Dallmann. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crass in view of Demeuse and Dallmann and further in view of Wilkie. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crass in view of Demeuse and Dallmann and further in view of Murschall. Claims 2-11, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkie in view of Crass and Dallmann. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkie in view of Crass and Dallmann and further in view of Murschall.

The applicant's claimed invention is a film that has a hard resin modified base layer. This base layer has two surfaces. On one side of the surface of the base layer is a first cover layer, which now requires the first cover layer is made of propylene polymers. On the outer surface of said first surface layer the applicant applies the cold seal adhesive. A second cover layer is applied on the second surface of the base layer. The base layer would be between the first and second cover layers.

The Examiner alleges Demeuse discloses a film comprising both surface layers and functional layers. The applicant believes this is a hindsight reading. Demeuse does not disclose to combine surface layers and cold adhesive layers, and certainly does not disclose to combine a surface layer being devoid of hard resin and a cold seal layer. A person of ordinary skill in the art understands from the wording of col. 4 line 55 to col. 5, line 24 that the surface layers mentioned in col. 4, line 63-64 should have a certain function, as they are called "functional layers" in the next line (col. 4, line 65). The "function" of these surface layers is either a heat seal function OR a cold seal function as explained in col. 5, lines 1 to 24. Clearly heat-seal layers and cold seal layers are alternative functional layers. The applicant cannot derive from this disclosure a film structure having a surface layer and an additional cold seal adhesive on top of such surface layer. The applicant wonders what the composition of such surface layer

carrying the cold seal adhesive would be. The applicant requires that the surface layer to be a polypropylene layer helps to distinguish. Certainly Demeuse does not disclose any such mere polypropylene layer as a surface layer having a cold seal adhesive on top.

Therefore it is not correct to say Demeuse discloses surface layer and functional layers. Demeuse discloses a cold seal as one example of surface layers. Another example for such surface layers are heat seal layers. This cannot be interpreted to mean a surface layer + a functional layer.

In relation to Dallmann, the applicant believes that this is a very remote prior art. Dallman relates to films having a central ethylene-vinyl acetate (EVA) layer for improved barrier (see the abstract). The applicant's film is a polypropylene film, which clearly defines that the film comprises is made mainly from propylene polymers. If anything Dallmann confirms that heat seal layers are alternatives to cold seal layers (see col. 6).

Crass also only suggests to use heat seal layers or cold seal layers as alternative cover layers on the surface of the hard resin modified base layer (see col. 3, lines 27 to 30). Furthermore as recognized by the Examiner in paragraph no. 110 of the office action, Crass does not teach a second cover layer is applied. Therefore a person of ordinary skill in the art cannot derive from Crass either a structure with a (hard-resin free) cover layer in between the hard resin modified base layer and the cold seal layer. Accordingly Crass does not cure the deficiencies of the Demeuse reference.

The Examiner correctly stated in paragraph no. 107 of the office action that Wilkie does not disclose any hydrocarbon resin or that a second cover layer is applied to the diametrically opposite surface of the base layer and is between the base layer and the first cover layer. Furthermore, Wilkie requires that the cold seal layer adjacent to the core (see the abstract and the summary of the invention). Wilkie does not disclose these claimed features.

The applicant does not believe that the other secondary references cure the deficiency of Demeuse. For the above reasons, these rejections should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 05581-00141-US from which the undersigned is authorized to draw.

Dated: June 15, 2010

Respectfully submitted,

Electronic signature: /Ashley I. Pezzner/
Ashley I. Pezzner
Registration No.: 35,646
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant